

CODIFICATION

The words “the examinations provided for in sections 3304 and 3305 of title 5” were substituted for “said examinations”, meaning the examinations provided for in section 3 of act Jan. 16, 1883, to reflect the enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1920—Act May 29, 1920, transferred the duty under this section, as enacted originally, from the Secretary of the Interior to the Civil Service Commission.

TRANSFER OF FUNCTIONS

“Office of Personnel Management” and “said Office” substituted in text for “Civil Service Commission” and “said commission”, respectively, pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

Functions with respect to acquiring space in buildings by lease, functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in Government-owned buildings), and functions with respect to operation, maintenance, and custody of office buildings owned by Government and of office buildings or parts thereof acquired by lease, including those post-office buildings which, as determined by Director of Bureau of the Budget, are not used predominantly for post-office purposes, with certain exceptions, transferred from respective agencies in which theretofore vested to Administrator of General Services by sections 1 and 2 of Reorg. Plan No. 18 of 1950, eff. July 1, 1950, 15 F.R. 3177, 64 Stat. 1270, set out as a note under section 490 of this title. For delegation of those transferred functions to other personnel of General Services Administration, or to heads and personnel of other agencies, and for transfer of personnel, property, records, and funds, see sections 3 and 4 of that Plan.

§ 43. Advertisements and sales in or around Washington Monument

No advertisement of any kind shall be displayed and no articles of any kind shall be sold in or around the Washington Monument, except upon the written authority of the Director of the National Park Service.

(Mar. 4, 1909, ch. 299, 35 Stat. 997; Feb. 26, 1925, ch. 339, §3, 43 Stat. 983; Ex. Ord. No. 6166, §2, eff. June 10, 1933; Mar. 2, 1934, ch. 38, 48 Stat. 389.)

CODIFICATION

Section is based on act Mar. 4, 1909, which appropriated funds for care and maintenance of the Washington Monument.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:

Feb. 9, 1909, ch. 101, 35 Stat. 615.
May 27, 1908, ch. 200, 35 Stat. 358.

CHANGE OF NAME

Act Mar. 2, 1934, changed name of Office of National Parks, Buildings, and Reservations of Department of the Interior to National Park Service.

TRANSFER OF FUNCTIONS

Ex. Ord. No. 6166, set out as a note under section 901 of Title 5, Government Organization and Employees,

abolished Office of Public Buildings and Public Parks of National Capital and transferred its functions to Office of National Parks, Buildings, and Reservations of Department of the Interior.

Act Feb. 26, 1925, transferred functions of Secretary of War under this section, as enacted originally, to Directors of Public Buildings and Public Parks of National Capital.

§ 44. Repealed. Oct. 31, 1951, ch. 654, §1(84), 65 Stat. 704

Section, act June 30, 1906, ch. 3912, 34 Stat. 659, related to control of fishponds in the Monument Grounds, grounds around them, and buildings thereon.

§ 45. Chief of Engineers; charge of Washington Aqueduct and other public works

The Chief of Engineers shall have the immediate superintendence of the Washington Aqueduct, together with all rights, appurtenances, and fixtures connected with the same, and belonging to the United States, and of all other public works and improvements in the District of Columbia in which the Government has an interest, and which are not otherwise specially provided for by law.

(R.S. §1800.)

CODIFICATION

R.S. §1800 derived from acts Mar. 3, 1859, ch. 84, §1, 11 Stat. 435; June 25, 1860, ch. 211, §1, 12 Stat. 106; Mar. 2, 1867, ch. 167, §2, 14 Stat. 466; Mar. 30, 1867, ch. 20, §3, 15 Stat. 12.

Act Mar. 2, 1927, ch. 271, 44 Stat. 1331, which was the District of Columbia Appropriation Act for the fiscal year 1928, provided that nothing therein should be construed as affecting the superintendence and control of the Secretary of War over said aqueduct.

WASHINGTON AQUEDUCT

Pub. L. 104-182, title III, §306, Aug. 6, 1996, 110 Stat. 1685, provided that:

“(a) DEFINITIONS.—In this section:

“(1) NON-FEDERAL PUBLIC WATER SUPPLY CUSTOMER.—The terms ‘non-Federal public water supply customer’ and ‘customer’ mean—

“(A) the District of Columbia;

“(B) Arlington County, Virginia; and

“(C) the city of Falls Church, Virginia.

“(2) SECRETARY.—The term ‘Secretary’ means the Secretary of the Army, acting through the Chief of Engineers.

“(3) VALUE TO THE GOVERNMENT.—The term ‘value to the Government’ means the net present value of a contract entered into under subsection (e)(2), calculated in accordance with subparagraphs (A) and (B) of section 502(5) of the Congressional Budget Act of 1974 (2 U.S.C. 661a(5)), other than section 502(5)(B)(I) [probably means section 502(5)(B)(i)] of the Act, as though the contract provided for repayment of a direct loan to a customer.

“(4) WASHINGTON AQUEDUCT.—The term ‘Washington Aqueduct’ means the Washington Aqueduct facilities and related facilities owned by the Federal Government as of the date of enactment of this Act [Aug. 6, 1996], including—

“(A) the dams, intake works, conduits, and pump stations that capture and transport raw water from the Potomac River to the Dalecarlia Reservoir;

“(B) the infrastructure and appurtenances used to treat water taken from the Potomac River to potable standards; and

“(C) related water distribution facilities.

“(b) REGIONAL ENTITY.—

“(1) IN GENERAL.—The Congress encourages and grants consent to the customers to establish a non-

Federal public or private entity, or to enter into an agreement with an existing non-Federal public or private entity, to—

“(A) receive title to the Washington Aqueduct; and

“(B) operate, maintain, and manage the Washington Aqueduct in a manner that adequately represents all interests of its customers.

“(2) CONSIDERATION.—If an entity receiving title to the Washington Aqueduct is not composed entirely of non-Federal public water supply customers, the entity shall consider the customers’ historical provision of equity for the Aqueduct.

“(3) PRIORITY ACCESS.—The customers shall have priority access to any water produced by the Washington Aqueduct.

“(4) CONSENT OF THE CONGRESS.—The Congress grants consent to the customers to enter into any interstate agreement or compact required to carry out this section.

“(5) STATUTORY CONSTRUCTION.—This section shall not preclude the customers from pursuing any option regarding ownership, operation, maintenance, and management of the Washington Aqueduct.

“(c) PROGRESS REPORT AND PLAN.—Not later than 1 year after the date of enactment of this Act [Aug. 6, 1996], the Secretary shall report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on any progress in achieving the objectives of subsection (b)(1) and shall submit a plan for the transfer of ownership, operation, maintenance, and management of the Washington Aqueduct to a non-Federal public or private entity. Such plan shall include a detailed consideration of any proposal to transfer such ownership, maintenance, or management to a private entity.

“(d) TRANSFER.—

“(1) IN GENERAL.—Subject to subsection (b)(2), the other provisions of this subsection, and any other terms and conditions the Secretary considers appropriate to protect the interests of the United States, the Secretary shall, not later than 3 years after the date of enactment of this Act [Aug. 6, 1996] and with the consent of a majority of the customers and without consideration to the Federal Government, transfer all right, title, and interest of the United States in the Washington Aqueduct, and its real property, facilities, and personalty, to a non-Federal, public or private entity. Approval of such transfer shall not be unreasonably withheld by the Secretary.

“(2) ADEQUATE CAPABILITIES.—The Secretary shall transfer ownership of the Washington Aqueduct under paragraph (1) only if the Secretary determines, after opportunity for public input, that the entity to receive ownership of the Aqueduct has the technical, managerial, and financial capability to operate, maintain, and manage the Aqueduct.

“(3) RESPONSIBILITIES.—The Secretary shall not transfer title under this subsection unless the entity to receive title assumes full responsibility for performing and financing the operation, maintenance, repair, replacement, rehabilitation, and necessary capital improvements of the Washington Aqueduct so as to ensure the continued operation of the Washington Aqueduct consistent with the Aqueduct’s intended purpose of providing an uninterrupted supply of potable water sufficient to meet the current and future needs of the Aqueduct’s service area.

“(e) BORROWING AUTHORITY.—

“(1) BORROWING.—

“(A) IN GENERAL.—Subject to the other provisions of this paragraph and paragraph (2), the Secretary is authorized to borrow from the Treasury of the United States such amounts for fiscal years 1997, 1998, and 1999 as are sufficient to cover any obligations that the Army Corps of Engineers is required to incur in carrying out capital improvements during fiscal years 1997, 1998, and 1999 for the Washington Aqueduct to ensure continued operation of the

Aqueduct until such time as a transfer of title to the Aqueduct has taken place.

“(E)[(B)] LIMITATION.—The amount borrowed by the Secretary under subparagraph (A) may not exceed \$29,000,000 for fiscal year 1997, \$24,000,000 for fiscal year 1998, and \$22,000,000 for fiscal year 1999.

“(C) AGREEMENT.—Amounts borrowed under subparagraph (A) may only be used for capital improvements agreed to by the Army Corps of Engineers and the customers.

“(D) TERMS OF BORROWING.—

“(i) IN GENERAL.—The Secretary of the Treasury shall provide the funds borrowed under subparagraph (A) under such terms and conditions as the Secretary of Treasury determines to be necessary and in the public interest and subject to the contracts required under paragraph (2).

“(ii) TERM.—The term of any loan made under subparagraph (A) shall be for a period of not less than 20 years.

“(iii) PREPAYMENT.—There shall be no penalty for the prepayment of any amounts borrowed under subparagraph (A).

“(2) CONTRACTS WITH CUSTOMERS.—

“(A) IN GENERAL.—The borrowing authority under paragraph (1)(A) shall be effective only after the Chief of Engineers has entered into contracts with each customer under which the customer commits to repay a pro rata share (based on water purchase) of the principal and interest owed by the Secretary to the Secretary of the Treasury under paragraph (1).

“(B) PREPAYMENT.—Any customer may repay, at any time, the pro rata share of the principal and interest then owed by the customer and outstanding, or any portion thereof, without penalty.

“(C) RISK OF DEFAULT.—Under each of the contracts, the customer that enters into the contract shall commit to pay any additional amount necessary to fully offset the risk of default on the contract.

“(D) OBLIGATIONS.—Each contract under subparagraph (A) shall include such terms and conditions as the Secretary of the Treasury may require so that the value to the Government of the contracts entered into under subparagraph (A) is estimated to be equal to the obligations of the Army Corps of Engineers for carrying out capital improvements at the Washington Aqueduct at the time that each series of contracts is entered into.

“(E) OTHER CONDITIONS.—Each contract entered into under subparagraph (A) shall—

“(i) provide that the customer pledges future income only from fees assessed for principal and interest payments required by such contracts and costs to operate and maintain the Washington Aqueduct;

“(ii) provide the United States priority in regard to income from fees assessed to operate and maintain the Washington Aqueduct; and

“(iii) include other conditions consistent with this section that the Secretary of the Treasury determines to be appropriate.

“(3) LIMITATIONS.—

“(A) BORROWING AUTHORITY.—The Secretary’s borrowing authority for making capital improvements at the Washington Aqueduct under paragraph (1) shall not extend beyond fiscal year 1999.

“(B) OBLIGATION AUTHORITY.—Upon expiration of the borrowing authority exercised under paragraph (1), the Secretary shall not obligate funds for making capital improvements at the Washington Aqueduct except funds which are provided in advance by the customers. This limitation does not affect the Secretary’s authority to conduct normal operation and maintenance activities, including minor repair and replacement work.

“(4) IMPACT ON IMPROVEMENT PROGRAM.—Not later than 180 days after the date of enactment of this Act [Aug. 6, 1996], the Secretary, in consultation with

other Federal agencies, shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that assesses the impact of the borrowing authority provided under this subsection on the near-term improvement projects in the Washington Aqueduct Improvement Program, work scheduled, and the financial liability to be incurred.

“(f) REISSUANCE OF NPDES PERMIT.—Prior to reissuing a National Pollutant Discharge Elimination System (NPDES) permit for the Washington Aqueduct, the Administrator of the Environmental Protection Agency shall consult with the customers and the Secretary regarding opportunities for more efficient water facility configurations that might be achieved through various possible transfers of the Washington Aqueduct. Such consultation shall include specific consideration of concerns regarding a proposed solids recovery facility, and may include a public hearing.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 48 of this title.

§ 46. Compensation of Chief of Engineers

The Chief of Engineers shall receive no compensation, other than his regular pay as an officer of the Corps of Engineers, for the services required of him under the provisions of title 21 of the Revised Statutes.

(R.S. §1807.)

REFERENCES IN TEXT

Title 21 of the Revised Statutes, referred to in text, was in the original “this Title”, meaning title 21 of the Revised Statutes, comprising R.S. §§1795 to 1835, which were classified to sections 49 to 52 of former Title 3. The President, sections 6 and 7 of former Title 4, Flag and Seal, Seat of Government and the States, section 702 of former Title 18, Criminal Code and Criminal Procedure, and sections 8, 19, 20, 45 to 52, 54 to 58, 66, 102, 166, 170, 187 to 189, 193, 206, 207, 208, 210, 211, 215, 216, 218 to 221 of this title. Such sections 49 to 52 of former Title 3 were repealed by act June 25, 1948, ch. 644, §3, 62 Stat. 672, and are covered by sections 109 and 110 of revised Title 3. Such sections 6 and 7 of former Title 4 were repealed by act July 30, 1947, ch. 389, §2, 61 Stat. 645, and are covered by sections 71 and 72 of revised Title 4. Such section 702 of former Title 18 was repealed by act June 25, 1948, ch. 645, §21, eff. Sept. 1, 1948, as covered by D.C. Code, 1940, §24-416. Such sections 8, 20, and 218 to 220 of this title were repealed by act Oct. 31, 1951, ch. 654, §§1(75)–(80), (82), 3(19)–(21), 65 Stat. 704, 709. Such sections 57, 58, and 221 of this title were omitted from the Code. See notes thereunder.

CODIFICATION

R.S. §1807 derived from act Mar. 3, 1859, ch. 84, §1, 11 Stat. 435.

§ 47. Apartments of Chief of Engineers

The Chief of Engineers shall be furnished official apartments in one of the public buildings in the city of Washington, as may be directed by the Administrator of General Services, and shall be supplied by the Government with the stationery, instruments, books, and furniture which may be required for the performance of his duties.

(R.S. §1808; June 30, 1949, ch. 288, title I, §103(a), 63 Stat. 380.)

CODIFICATION

R.S. §1808 derived from act Mar. 3, 1859, ch. 84, §1, 11 Stat. 435.

REPEALS

Section 10 of act Mar. 1, 1919, ch. 86, 40 Stat. 1269, formerly set out as a credit to this section, was repealed by Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 644.

TRANSFER OF FUNCTIONS

Functions of office of Commissioner of Public Buildings and Public Buildings Administration transferred to Administrator of General Services by section 103(a) of act June 30, 1949, which is classified to section 753(a) of this title. Office of Commissioner of Public Buildings and Public Buildings Administration abolished by section 103(b) of act June 30, 1949.

R.S. §1808 provided that official apartments should be furnished to the Chief of Engineers at the direction of the President. The function of allotment of space in public buildings in the District of Columbia was placed in the Public Buildings Commission by act Mar. 1, 1919, ch. 86, §10, 40 Stat. 1269.

EFFECTIVE DATE OF TRANSFER OF FUNCTIONS

Transfer of functions by act June 30, 1949, effective July 1, 1949, see section 605 of act June 30, 1949, set out as an Effective Date note under section 471 of this title.

§ 48. Obedience to President by Chief of Engineers

The Chief of Engineers shall obey, in the discharge of the duties mentioned in section 45 of this title, such regulations, pursuant to law, as may be prescribed by the President, through the Department of the Army.

(R.S. §1801; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

CODIFICATION

R.S. §1801 derived from acts May 2, 1828, ch. 45, §4, 4 Stat. 266; Mar. 3, 1859, ch. 84, §1, 11 Stat. 435; June 25, 1860, ch. 211, §1, 12 Stat. 106; Mar. 30, 1867, ch. 20, §3, 15 Stat. 12.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

§ 49. Record of property by Chief of Engineers

The Chief of Engineers shall keep in his office a complete record of all the lands and other property connected with or belonging to the Washington Aqueduct and other public works under his charge, together with accurate plans and surveys of the public grounds and reservations in the District of Columbia.

(R.S. §1809.)

CODIFICATION

R.S. §1809 derived from act Mar. 3, 1859, ch. 84, §1, 11 Stat. 435.

§ 50. Reports by Chief of Engineers

The Chief of Engineers shall, as superintendent of the Washington Aqueduct, annually submit to the Secretary of the Army, within nine months after the end of the fiscal year, a report of the Chief of Engineers’ operations for that year and a report of the condition, progress, re-